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IN THE

# Supreme Court of the United States

OCTOBER TERM, A.D. 1961

## No. 445

**STELLA C. DAVIS,**

Petitioner,

VS.

**THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a Banking Corporation, RAY M. FOREMAN, CLYDE MEACHUM and KENNETH CLAPPER,**

Respondents.

**Petition for Writ of Certiorari to the Circuit Court of Coles County, Illinois.**

**Petitions for Writs of Certiorari to All Cases Listed in Appendices "A-B".**

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*To The Honorable Earl Warren, Chief Justice, and Associate Justices of The Supreme Court of The United States.*

Stella C. Davis, petitioner, Pro Se, prays that a Writ of Certiorari issue to review and reverse the Orders of

the Circuit Court of Coles County, Illinois, entered on June 30, 1961, dismissing petitioner's appeal and affirming the Orders of Coles County Court on petition to reopen Probate No. 15428 and for accounting to Distributee.

Petitioner, Pro Se, also prays that Writs of Certiorari issue to review and declare VOID all causes of action had in the various courts of the United States as reported in Appendices "A-B" wherein petitioner was Pro Se and as such challenges the constitutionality of an "Act of Congress" in U.S.C.A. 28 sec. 1654, Appearance personally of by counsel. Quote, "In all courts of United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectfully, are permitted to manage and conduct cases therein", and asserts the following:

## REPORTS OF OPINIONS BELOW.

The Circuit Court of Coles County, Illinois, did not issue a written opinion, thereon, but Memorandum Opinion issued on February 16, 1953, 52 L 143 is set forth as Petitioner's Appendices "A-B".

The Illinois Coles County Court being the Trial Court did not issue a written opinion On Petition To Reopen Probate No. 15428 And For Accounting To Distributee, thereon, but on May 16, 1952, issued a written opinion which is set forth as Appendix in U. S. Supreme Court No. 969, April 30, 1958.

The opinions of all courts wherein petitioner was a litigant are in the records of cases as reported in Appendix "A-B".

## JURISDICTION.

The Illinois Circuit Court of Coles County entered its final Orders on June 30, 1961, dismissing Appeal on Petition To Reopen Probate Case No. 15428 And For Accounting To Distributee affirming the Orders of The Illinois Coles County Court entered on March 13, 1961 dismissing Petition To Reopen Probate No. 15428; Motion For Change of Venue and Probate Judge and Motion For Subpoenas Duces Tecum, and all other pleadings entered therein.

On June 30, 1961, petitioner filed Notice of Appeal To The Supreme Court of United States and on July 18, 1961, filed Collateral In Lieu of Appeal Bond both in The Circuit Court of Coles County. On July 21, 1961, an Amended Notice of Appeal To The Supreme Court was filed in the Circuit Court, pursuant to U.S.C. 28 sec. 1257 (2-3) and U.S.C. 28 sec. 1252.

This petition is filed within ninety days of entry of Order on Appeal, affirming dismissal of Petition To Reopen Probate No. 15428, and denying and dismissing all pleadings of petitioner and accordingly the jurisdiction of this Court to review the Orders of the Illinois Circuit Court of Coles County by a Writ of Certiorari is invoked under 28 U.S.C. 1257 (2) (3) and 1252, Rule 56 of 28 U.S.C., 1895, U.S. Const. art. IV and amend. XIV, *In Re Quarles,* Ga. 1895, 15 S. Ct. 959, 158 U. S. 537 39 L. ed. 1080. 18 U.S.C. 3056, 51, 471, 472, 473, 2314 and 2315. 28 U.S.C. 1442 (3).

The jurisdiction of this Court to review and to Void all orders, judgments, decrees, wherein petitioner was Pro Se, or where petitioner was forced to plead Pro Se

as the result of legal schemes or technicalities which rendered petitioner under legal duress is invoked under 28 U.S.C. 1564 as an "Act of Congress" being unconstitutional and which causes of action are listed in Appendices "A-B" herein. Also the Anti Moiety Act 22, 1874.

## QUESTIONS PRESENTED.

The case involves an action by Petition To Reopen Probate No. 15428 And For Accounting To Distributee In The County Court of Coles, State of Illinois, pursuant to Ill. Rev. Stat. Chapter 3, sec. 451, 217, 251, 191, 467, 430, 451, 461, 482. That new evidence of Forgery and Fraud be made part of the probate court record and that the Coles County Court and the U. S. Treasury Department assign an investigator to investigate the U. S. Savings bonds inventoried in this court and distributed either via U. S. Mails or in person to widow and heirs-at-law of decedent, William Daviditis, aka, William Davis, by then U. S. Assistant attorney, Ray M. Foreman, and The National Bank of Mattoon, administrator, and its attorney.

The questions presented by the petition are set heretofore: Whether a Trial Court commits reversible error in dismissing Petition To Reopen Probate No. 15428 and For Accounting To Distributee wherein petitioner requested that new evidence of Forgery and Fraud obtained in another country be made a part of the court's record and that the court and the U. S. Treasury Department assign an investigator to investigate the U. S. Savings Bonds inventoried in said court by administrator and its attorneys and distributed to deceased widow and heirs-at-law of the above named decedent; and the court denying all

relief pleaded in petitioner's cause of action, and The Illinois Circuit Court of Coles County affirmed the Orders of The Trial Court in dismissing the appeal when:

1. "Color of Office", an act unjustly done by countenance of an office grounded upon Corruption to which the office was a show and color U.S.C. 28 sec. 1442 (3) U.S.C. 5 sec. 139-503-4. *Griffin* v. *U. S.*, C.C.A. Pa. 1924, 295 F. 437.

2. It is the right of every private citizen of the United States to inform a F.B.I., Secret Service, Treasury (Int. Rev.) agent, etc., of violations of United States Laws under U.S.C. 28, Rule 56 (1895) U.S.C. 18, sec. 3056, 471, 472, 473, 2314 and 2315, 51, (Rec. 2-3) and the Anti Moiety Act of June 22, 1874 C 391. (Rec. 3, 38, 39, 48, 49, 50, 54, 55, 80)

3. "Acts of Congress" affecting the public interest is drawn in question U.S.C. 28 sec. 1654, "Appearance personally, or by Counsel." (App. A-B; Rec. 41, 49, 73, 80)

4. U.S.C. 28 sec. 1443(1) petitioner is denied and cannot enforce any right in the courts of Illinois and various other courts in the United States (app. A-B) providing for equal rights of its citizens therein.

5. Ill. Rev. Stat. Chapter 37 sec. 303, Court can Void Orders on a petition fraudulently constructed and chapter 3 sec. 494 actions which survive for Fraud and Deceit.

6. Limitations-*Federal* U.S.C. 12 sec. 93 and *State* Ill. Rev. Stat. Chapter 3 sec. 325 not barred by Chapter 51 sec. 2. (Rec. 7-10)

7. Const. Art. IV "Full Faith and Credit shall be given each State to public records and judicial proceedings of every other state. (See Argument, p. 13)

## STATEMENT OF THE CASE.

This action was brought about by Petition To Reopen Probate No. 15428 And For Accounting To Distributee, pursuant to Ill. Rev. Stat. Chapter 3, sec. 451, 217, 251, 191, 467, 430, 451 and 482. In The County Court of Coles, Illinois. The petitioner also requested this court to show cause why a continuous and constructive Fraud was perpetrated upon petitioner by former fiduciaries, The National Bank of Mattoon, and its attorneys, Foreman, Meachum and Clapper.

That the petitioner had to go to another country to get new evidence of fraud and forgery and that the court, in probate, make this new evidence a part of their court records.

The petitioner also requested this court and The Treasury Department of U.S.A., Div. of Loans and Disbursements to assign an investigator to investigate the U. S. Savings Bonds listed in inventory of decedent's bank box on April 3, 1951, in The National Bank of Mattoon, by Ray M. Foreman, then U. S. Assist. Dist. Attny., and who was representing the petitioner on said date and who eventually distributed the disputed bonds to petitioner and the other out-of-town and state heirs-at-law bonds were sent via U. S. Mails by the bank.

On January 16, 1961, petitioner filed a Motion For Change of Venue and Change of Probate Judge to Reopen No. 15428, pursuant to Ill. Rev. Stat. Chapter 37, sec. 346, 323, 305 and Sec. 4 Canon of Judicial Ethics for Judges. Petitioner stated that The Illinois County Court of Coles, In Probate, overlooked many violations of the

Illinois Probate Act and rules of civil practice act of Illinois, and State of California. That due to "conspiracy To Obstruct Justice" on the part of the National Bank of Mattoon, administrator who came in by fraud assisted by a U. S. Assistant District Attorney, on federal pay roll and on a government working day to cause this continuous and constructive fraud upon petitioner and many attorneys brought into this matter who used many devious schemes to obstruct justice that eventually petitioner was forced to represent herself in the many courts in U.S.A. (App. "A-B")

That the petitioner went personally to Honorable William J. Sunderman, judge of the Illinois Coles County Court in June and August 1951 and asked permission to file an objection to The National Bank of Mattoon, wherein her attorney, Ray M. Foreman ignored all written requests by petitioner, widow and the heir-at-law, litigants in the many cases listed in App. "A-B". This right was denied by the judge, yet permission was given the petitioner and heir-at-law to file pleadings Pro Se, in Court on date of hearing on April 25, 1952. (rec. 12-14) The petitioner requested a change of Venue from Coles County to Cook County, State of Illinois, inasmuch as petitioner is the Executor of the estate of her late mother, Josephine Daviditis, aka, Josephine Davis (App. "A-B"), who was a litigant in many causes of action therein; and petitioner also requested an investigator from the U. S. Treasury Dept. and an agent from the U. S. Secret Service to be present at the hearing on the above mentioned Motion For Change of Venue And Judge; And Petition To Reopen Probate No. 15428 And For Accounting To Distributee (rec. 12-14).

On March 13, 1961, at the Hearing held in The County Court of Coles in petitioner's cause of action, a request for criminal action in court to The State's Attorney of said county regarding Kenneth Clapper, one of the defendants in this cause of action, who came in originally with Foreman on April 2, 3, 1951, to perpetrate a continuous and constructive fraud and conspiracy upon petitioner and who aided and abetted Foreman when he took petitioner's detective's report and legal file on April 2, 1951, was denied petitioner and upon further insistence that something be done about the defendants was ordered out of the court room by a court official (rec. 48-47)

On March 24, 1961, Notice of Appeal was filed in the County Court and in it petitioner requested the court to set appeal bond, and had to wait until the record on appeal was sent via mail which arrived in Chicago to petitioner on March 28, 1961, whereas appellant filed Collateral In Lieu of Appeal Bond in the Circuit Court of Coles County by certified check No. 350 in amount of $200.00. *Ruton* v. *Lagonda Nat'l. Bank*, 72 Ill. App. 35 (rec. 30-31). That appellant was afraid to go into the Coles County Court, In Probate, to file for an extension of time or any other pleadings therein as the result of being ordered from the court on March 13, 1961. (rec. 46-48) That appellant contacted many bonding companies for an appeal bond and was denied one because petitioner was representing herself, Pro Se. Petitioner even advertised in the Chicago Tribune for attorneys and went to many attorneys who would not take this cause of action, and the Bar Associations of Chicago, Vermilion, Coles Counties and State of Illinois ignored requests for legal help in the many years of litigation by petitioner and other named litigants in cases listed in Appendices "A-B".

Petitioner-Appellant in Reply Brief for Appellant No. 61 L 56 requested the Federal Bureau of Investigation, The Secret Service and The U. S. Treasury department to be represented by their agents, be present in court and that a trial by Jury demanded on all issues. All were denied by the court on June 30, 1961. (rec. 49-50)

The petitioner again had to file Collateral In Lieu of Appeal Bond in the Circuit Court of Coles, Ill. by certified check No. 361, in the amount of Two Hundred Dollars on July 18, 1961.

In Amended Notice of Appeal To The Supreme Court of U. S. A., petitioner challenges an "ACT OF CONGRESS" pursuant to 28 U. S. C. 1654 as unconstitutional which is set out verbatim on Page 1 of Petition for Writ Of Certiorari. (rec. 80)

On June 30, 1961, at the Hearing held in the Coles County Circuit Court in No. 61 L. 56, Honorable Spivey, presiding judge, stated that appellant go to the State's Attorney of said county regarding some of these complaints, but petitioner feels in view of what happened in the County Court of Coles, on March 13, 1961, that in the interest of Justice it would be best if a Change of Venue would be granted petitioner in event the Supreme Court of The United States denies Petition For Writ of Certiorari to this court and the other courts of the United States wherein petitioner was forced to go Pro Se. (Rec. 70)

## ARGUMENT.

1.

"ACT OF CONGRESS" 28 U.S.C. 1654. Appearance personally or by counsel.

"In All Courts of United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectfully, are permitted to manage and conduct cases therein". Act of June 25, 1948 646 1 63 stat. 944. May 24, 1948 91 63 stat. 103.

The petitioner challenges an "Act of Congress" as being unconstitutional and which is affecting the public interest is drawn in question is 28 U.S.C. 1654, above listed.

Petitioner further cites highlights of various cases as listed in petitioner's APPENDIX "A" & "B", wherein petitioner and litigants were forced to appear in various courts pro se due to the Fraud, Conspiracy To Obstruct Justice, legal trickeries and schemes whereas petitioners were subjected to the same rules, expenses of court charges, printing charges and court fees, etc. and ruled on an unequal basis with attorneys, bankers, federal and state officers of the courts, who had had many years of legal experience practicing law and who came in on "Conflict of Interest" cases and then doublecrossed their clients.

Attorneys of many years legal practice who filed complaint under Federal Tort Claims Act, 28 U.S. Section 1346 (b) which was forever barred unless action is begun within two years. *Davis & Horrigan* v. *U.S.A., Foreman.* In U.S.C.A. 7 Cir. R. Tieken, U. S. Attorney stated that discretion vests in the U. S. Attorney to prosecute or not

prosecute a criminal action is established by the law, and as such is not subject to judicial review. Assistant U. S. Attorney, defendant, Ray M. Foreman used this government office in conspiracy to obstruct justice and to perpetrate a continuous and constructive fraud upon petitioner informant to the F.B.I., and who, in the opinion of the petitioner, was led to believe by Foreman in his official capacity as Assistant U. S. District Attorney he was to prosecute the violations complained about to the F.B.I. but came into the fraudulent Probate No. 15428 to protect these individuals and corporations.

In another cause of action litigant Josephine Daviditis' name was signed by her attorney whereas client was out of the jurisdiction of the court and the State of Illinois on an amended complaint whereas the original complaint was dismissed because of default.

Attorneys who collected huge fees and who filed little or no pleadings signed by their clients, whereas in one case it was only an Appeal Bond and when clients became aware of the fraud perpetrated on them discharged the attorney in the court and were denied Pro Se a Motion For Continuance and etc. Appendices "A-B". The fees for services rendered were given these attorneys before they started the case.

Attorneys who tried to help their clients were denied the right to file amended pleadings before judgment, their denial was affirmed by the Appellate Court of Illinois.

An attorney from the Attorney General's Office in Illinois, was ordered off appellants cause of action on appeal to the Appellate Court of Illinois from the Circuit Court of Coles County, Illinois.

Petitioner and other litigants paid a docketing and oral argument fee of $150.00 in U. S. Supreme Court case No. 861. When petitioner came with her mother to Washington, D. C. to the court to argue her cause orally she was ordered out of the court because she was not an attorney of record, yet she abided by all the rules, of fees, costs, printing of petitions and etc., and yet this court denied petitioner and other litigants the same equal legal basis as attorneys of that court. Is this constitutional? After the cause of this action was dismissed litigants were refunded the $50.00 fee.

In U.C.A. 7 Cir. Nos. 12111 and 12112 litigants prepared and filed their briefs and documents as per rules being subjected to printing and filing charges about $500.00 or so, yet appellees, bankers and federal and state attorneys were granted leave to file a typewritten brief, by fiduciaries who came into their causes of action by fraud, Conspiracy to Obstruct Justice, and other fraudulent and deceitful acts.

Are the Decisions, Orders, Decrees, and etc. rendered in the listed causes of action wherein petitioner and litigants mentioned in cases in Appendix "A" "B" and present case, Valid and Binding? And that all legal redress in any court in the U. S. will be denied petitioner and litigants as the result of the continuous fraud and "conspiracy to obstruct" justice from 1949, 1950 Probate No. 15428, and thereon to date?

Is this "JUSTICE UNDER THE LAW"? on an equal legal basis with attorneys, both federal and state and private? The petitioner is of the opinion that under such an anarchistic system of law, double talk laws and precedent cases in a layman's language there isn't any necessity for Law Colleges, Licensing of Attorneys, Bar Associations,

Censure Groups etc. Just pit one layman litigant against another layman on an equal legal basis and that should constitute balanced justice.

A Nation that preaches "JUSTICE UNDER THE LAW" and does not practice what it preaches, is a Nation Doomed To Eventual Oblivion!

**2.**

*Griffin* v. *U. S.*, C.C.A., Pa. 1924, 295 F. 437. The U. S. Attorney and his assistants are Officers of the Court holding *Quasi Judicial Positions.* It is their recognized duty not only to *prosecute the guilty but also to protect the innocent.*

**3.**

California had original jurisdiction of Estate. Constitution of U. S. Article IV.

The Full Faith & Credit provisions of the U. S. Constitution should be applied to why fraud was continuous and constructive on the widow and heirs-at-law wherein California had original jurisdiction and Illinois ancillary jurisdiction. *Pratt* v. *Hawley*, 297 Ill. 244 130 N.E.

**4.**

*Hutton* v. *Porrovectrio*, 183 Ill. App. 81. *In re Hallock's Estate*, 154 Ill. App. 91. Probate Court has full authority to direct proceedings to Revoke and set aside a Void Order on a Petition constructively fraudulent as the Petition for Letters of administration dated April 3, 1951.

**5.**

37 Sec. 346, 323, 305 and Sec. 4 Canon of Judicial Ethics. Ill. Rev. Stat. Chapter 3, sec. 247-162-Smith Hurd Stat. at Common Law. Illinois Probate Act.

Petitioner filed a Motion For Change of Venue and Probate Judge on January 16, 1961, and at the Hearing held in said court made an Oral Motion for a change of venue to the Cook County Probate Court of Illinois as petitioner was probating her mother's estate who was a litigant in the many causes of action in said court and is listed in Appendix "B". This was denied and all change of venues and a change of Judge denied. Succession to property assets is governed by law of Domicile of Intestate.

## CONCLUSION.

Wherefore, for reasons above stated petitioner prays that this Court issue a Writ of Certiorari to review and reverse the Orders of the Illinois Circuit Court of Coles County, and to issue Writs of Certiorari to all of the courts listed in APPENDIX "A" and "B" to review and declare VOID these Orders, Judgments and Decrees wherein due to a "Continuous and Constructive Fraud" and "Conspiracy to Obstruct Justice," petitioner was left without any legal recourse for relief in any court wherein petitioner and appellant presented causes of action.

Respectfully submitted,

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## APPENDIX A.

Petitioners' cases in Courts in United States as reported:

*Davis & Horrigan* v. *Foreman & U. S. A.*, 56 C 381 U. S. Dist. Court No. Ill. Dist., C.A. 7 Cir. No. 11846, U. S. Supreme Court 353 U. S. 824 Certiorari, Rehearing denied. Petitioners Pro Se. Solicitor Gen'l. Rankin, Assist. Attny. Gen'l. Dowd & Paul A. Sweeny for U. S. respondent. Reported below 239 F 2d 579 C.A. 7 Cir.

*Davis & Horrigan* v. *Seymour*, Civil No. 35831 U. S. Dist. Court No. Calif., So. Div. U. S. Supreme Court 353 U. S. 791, Appeal & Rehearing denied, petitioners Pro Se.

*Daviditis, Davis & Horrigan* v. *The Nat'l. Bank of Mattoon*, a banking corporation, Coles County Circuit Court, Illinois No. 53 L 121. Petitioners Pro Se and by Sidney N. Ware, attny., Hearing day. Motion to amend denied. Ill. App. Court No. 9993 by above attny. Affirmed orders of trial court and denied Petition For Rehearing. Petition For Leave to Appeal denied by Supreme Court of Illinois. Petitioners Pro Se.

*Davis* v. *Foreman*, Cir. Court Vermilion County, Illinois No. 53 L 106. Pleadings impounded, complaint dismissed, plaintiff, Pro Se. Ill. App. Court No. 9992 affirmed orders of Trial Court—Petition For Leave To Appeal in Ill. Supreme Court denied. Petitioner Pro Se. Reported 6 Ill. App. 2d 343—3rd Dist.

*Davis & Horrigan* v. *Foreman, Meachum & Clapper*, U. S. Dist. Court, Ea. Dist. Ill., No. 1502-D. Complaint dismissed without Hearing. To Void court orders heard. U. S. C. A. 7 Cir. No. 12111 confirmed trial court orders

and denied all relief. Reported below 251 F 2d 421—U. S. Supreme Court 356 U. S. 940 Certiorari denied, petitioners Pro Se.

*Daviditis, Davis & Horrigan* v. *The Nat'l. Bank of Mattoon,* 1533-D U. S. District Court Ea. Dist. Ill., Complaint dismissed, all pleadings denied. U. S. C. A. 7 Cir. No. 12112 Court affirmed Orders of Trial Court. U. S. Supreme Court 356 U. S. 941 Certiorari denied Reported below 251 F 2d 299 C. A. 7 Cir. Petitioners & complainants Pro Se.

*Daviditis, Davis & Horrigan* v. *The Nat'l. Bank of Mattoon,* Petition To Reopen Probate No. 15428 Coles County Court, Illinois, petitioners Pro Se. Dismissed by Court—appeal To Illinois Supreme Court No. 34698—orders of Coles County Court affirmed. U. S. Supreme Court 357 U. S. 969, Certiorari denied. Reported below 6 Ill. App. 2d 286, 127 N.E. 2d 462.

*Daviditis, Davis & Horrigan* v. *The Nat'l. Bank of Mattoon,* a banking corporation, Wayne Joseph O'Bryan, June O'Bryan & Ray M. Foreman No. 1612-D U. S. Dist. Court Ea. Ill. Dist., Complaint dismissed. U. S. C. A. 7 Cir. No. 12439 confirmed lower court's Order, Rehearing denied—dismissed. U. S. Supreme Court appeal combined with Hon. Casper Platt's case. 353 U. S. 960 and 354 U. S. 632. Certiorari denied, Petitioners Pro Se. Reported below 262 F 2d 884. Rehearing denied.

*Daviditis, Davis & Horrigan* v. *Hon. Casper Platt,* Judge of the U. S. Dist. Court Ea. Dist. Ill. No. 12527 U. S. C. A. 7 Cir. Petition For Mandamus dismissed. Rehearing denied. Petitioners Pro Se.

*(Appendix)*

Coles County Court In Probate No. 15428. All relief denied.

Circuit Court of Coles County Illinois No. 53L 143 — appellants denied all relief, refused right by presiding Judge to testify or defend in court when they discharged their attorney who double crossed them in open court and former attorneys and fiduciaries testified against their clients and fiduciaries in open court etc. Unjust opinion rendered against appellants who were Pro Se — (See App. "A-B").

*Daviditis* v. *Daviditis & National Bank of Mattoon,* No. 49 C 50, Petition to Vacate in 1955 denied by City Court of Mattoon, Ill. This court did not have jurisdiction of subject matter as Original Complaint in 9/9/1949 was in default as complainant was out of jurisdiction of the court and was in California. Amended complaint was a fraud. Signature was not complainant's nor was authorization given to the person who signed her name to same.

## APPENDIX B.

State of Illinois
County of Coles—ss.

IN THE CIRCUIT COURT THEREOF
Filed Feb. 28, 1953

In The Matter Of The Estate Of
William Daviditis

Appeal From The County Court

(No. 52-L-143)

### MEMORANDUM OPINION OF THE COURT.

This case comes to this Court on appeal from the County Court of this county. The hearing is de novo. The orders appealed from involve the administration of the estate of William Daviditis, deceased, which are contained in the order of the County Court filed May 26, 1952.

The cause was called for trial on January 8, 1953. Francis T. Carson, an attorney, appeared for Josephine Daviditis, Stella C. Davis, Betty Horrigan and Matilda Marion, the widow and three daughters of the decedent respectively. Kenneth A. Green appeared for Marie Myers, a daughter, and Ray Foreman, an attorney of Danville, Illinois, appeared for the administrator. The attorneys stipulated that the only questions to be considered on the appeal were the amount of the fees of the administrator and its attorney, Mr. Foreman.

Witnesses were then called on behalf of appellee's case, and after some testimony was taken, Stella Davis and

*(Appendix)*

Betty Horrigan, who had been present at all times in Court, with their mother, and sister Marie Myers, advised the Court that they had discharged their attorney, Mr. Carson, and asked the Court to continue the case so they might obtain other counsel. This motion was denied. Mr. Carson then stated that he would not appear further for Stella Davis and Betty Horrigan, but objected to a continuance as he still represented another daughter and heir, Matilda Marion.

The trial then proceeded, witnesses having been heretofore subpoenaed, on the issue as to the administrator's and attorney's fees. The heirs above named remained present in Court throughout the hearing.

The daughters who asked for a continuance have not appeared in Court since that day, in person or by attorney, asking it to reopen the case, although the case has been under advisement by the Court for more than a month.

Mr. Foreman and the administrator both testified in detail as to the nature and extent of the services they had performed. W. K. Kidwell, J. I. Dilsaver and Ralph Suddes, attorneys of this bar, testified in their opinion the services were worth considerably more than the amount of $1500.00 asked for by the administrator and $3000.00 asked for by Mr. Foreman.

The above witnesses were the only witnesses who testified on behalf of the appellee. Mr. Carson used as a witness Wayne O. Shuey, an attorney of this bar, who testified that the fees should be considerably less than the amount claimed. None of the heirs present testified, nor did anyone testify in their behalf, except Mr. Shuey.

*(Appendix)*

• • • • •

It appears from the testimony of Mr. Foreman, the administrator, and from the files, that the estate itself was a small one, liquid in form as to personal property. The value of the personal which was readily convertible into cash, was approximately $20,000.00. The real estate, the main portion of which consisted of a dwelling and homestead of the widow, amounted to $7000.00. The nature of the estate, and its orderly, usual administration, entailed no difficult problems whatsoever. The administrator was appointed at the request of the heirs, the assets were inventoried, claims were allowed, and neither the administrator nor the attorney's services required any more skill than is necessary to administer any other estate of this nature except for additional services performed. The administrator and the attorney had many conferences with Stella and Betty shortly after the commencement of and throughout the administration. It appears that the two daughters were convinced and obsessed with the idea that their father, who was a man in ordinary circumstances, had a great deal of other property which could not be found. It being the duty of the administrator to discover all property of the decedent that it could, both the administrator and the attorney performed a lot of services for the estate in order to attempt to discover other property. It appears at this time that all the heirs acquiesced in the requests that the administrator do everything it could to find this property. They checked the bond accounts of the United States to discover what bonds the decedent had ever owned, and found that he had never owned other bonds except those he owned at the time of his death. They checked the building and loan offices in various

counties to determine what building and loan stock he had owned. Nothing unusual was discovered from this investigation, or that he owned any other stock except that which he owned at the time of his death, which had been accounted for.

Some time was expended to determine the validity and status of a trust agreement entered into in the City Court of Mattoon, in a separate maintenance proceedings brought by the widow against her husband some years ago. Nothing indicating that the estate had any property coming from this trust agreement. Considerable time was used in checking certain real estate transfers made by the decedent in his lifetime. Nothing was found to be unusual about these transactions, or that the decedent had any money coming from them. At the request of Stella and Betty, Mr. Foreman checked the indexes of the records concerning real estate transactions by the decedent, if any, in this county, and several other counties. Mr. Foreman testified that after all this investigation that no other property was found belonging to the decedent except that which was inventoried in the administration proceedings, and shown in the final account of the administrator.

It is not necessary to narrate all the testimony on the subject as fully testified to by Mr. Bauer, Trust Officer of the bank and Mr. Foreman. It is apparent that they performed many services for the estate not ordinarily required to be performed in an estate of this nature. It appears that some time during the administration that Betty and Stella became dissatisfied with the services of the administrator and Mr. Foreman, and accused both the bank

and the attorney of not performing their duties, and wanted them to resign. They claimed that the bank and the attorney had conspired against them, and had cheated and defrauded them. The two sisters have been bitterly and vehemently antagonistic toward them for some time. They have harassed and annoyed the bank and Mr. Foreman by these claims, have had them investigated by the F. B. I., and Mr. Foreman by the Illinois State Bar Association, and have openly slandered and libeled them.

I do not deem these quarrels, annoyances, harassments, libels and slanders which I think are wholly unjustified should have anything to do with the allowance of proper fees in this case. That was a personal matter between some of the heirs and the administrator and its attorney, and not compensable as a charge against the estate. I believe from the testimony of Mr. Bauer and Mr. Foreman that they feel that they should have compensation for this treatment from the assets of the estate. No evidence of time actually expended was presented to the Court, except by way of conclusion, especially insofar as Mr. Foreman is concerned, and he testified he thought he had spent about sixty days' time in looking after the business of the estate. The estate was not large, and all the work performed was not brought about by all of the heirs. It is difficult to value the worth of attorney's fees and administrator's fees, but I am inclined to think that the fees claimed are somewhat excessive, based on my experience in these matters. The character and integrity of the claimants have been unjustly and unfairly assailed by irresponsible people without any proof whatever, but this is not a matter that can be fixed in dollars. If its value can be fixed

in dollars, it should not be properly chargeable against this estate, especially where other innocent heirs are involved.

Considering the nature of the estate and the services performed, it is my opinion that a fee of $2500.00 would be fair and reasonable for his services as attorney for the estate, and a fee of $1250.00 as administrator's fee is likewise fair and reasonable. All other petitions and objections are overruled or denied.

Counsel for appellee will prepare an order consistent with this opinion, so it may be certified back to the County Court for further action pursuant to law.

BEN F. ANDERSON,
Circuit Judge.

February 15, 1953.